

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

RICHARD SCOTT,

Appellant,

v.

DIVISION OF EMPLOYMENT SECURITY,

Respondent.

DOCKET NUMBER WD74587

Date: September 4, 2012

Appeal from:
Labor and Industrial Relations Commission

Appellate Judges:
Division One: James M. Smart, Presiding Judge, Lisa White Hardwick and Gary D. Witt,
Judges

Attorneys:
Jeannie D. Mitchell, Jefferson City, MO, for appellant.
Carla G. Holste, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

RICHARD SCOTT

Appellant,

v.

DIVISION OF EMPLOYMENT SECURITY,

Respondent.

WD74587

Labor and Industrial Relations Commission

Before Division One: James M. Smart, Presiding Judge, Lisa White Hardwick and Gary D. Witt, Judges

Richard Scott appeals the Labor and Industrial Relations Commission's decision that he is disqualified from receiving unemployment benefits. He claims the Commission's conclusion that his employer, CEMO Lanes, LLC, discharged him for misconduct is not supported by the evidence.

REVERSED AND REMANDED.

Division One holds:

The Commission erred in finding that Scott's statements to his employer and his employer's wife constituted disqualifying misconduct. CEMO Lanes failed to meet its burden of proving that, in making the statements, Scott deliberately disregarded the standards expected of its employees or was culpably negligent. While Scott's statements were sufficient to discharge him from his employment, the evidence does not support a finding that the statements were the result of anything more than a simple lack of judgment.

Concurring Opinion:

In the concurring opinion, Judge Smart expresses the view that in a different context, remarks such as those in this case could constitute disqualifying misconduct.

Opinion by: Lisa White Hardwick, Judge

Concurring opinion by: James M. Smart, Presiding Judge

September 4, 2012

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